

per-gallon standards of paragraph (a) of this section.

(i) The marking requirements of paragraphs (d)(1), (d)(4), (e)(1), (e)(4), (f)(1), and (f)(4) of this section do not apply to heating oil, or, for paragraphs (e)(1) and (e)(4) of this section, diesel fuel designated as LM diesel fuel that is distributed from a truck loading terminal located within the areas listed in paragraphs (g)(1) and (g)(2) of this section and is for sale or intended for sale within these areas, or that is distributed from any other truck loading terminal and is for sale or intended for sale within the area listed in (g)(2) of this section.

(j) The provisions of paragraphs (h)(1) and (h)(2) of this section do not apply to diesel fuel sold or intended for sale in the areas listed in paragraph (g)(1) of this section that is produced or imported in full compliance with the requirements of §§ 80.536 and 80.554 or to diesel fuel sold or intended for sale in the area listed in paragraph (g)(2) of this section that is produced or imported in full compliance with the requirements of § 80.536.

[69 FR 39168, June 29, 2004, as amended at 70 FR 40895, July 15, 2005]

§ 80.511 What are the per-gallon and marker requirements that apply to NRLM diesel fuel and heating oil downstream of the refiner or importer?

(a) *Applicable dates for marker requirements.* Beginning June 1, 2006, all NRLM diesel fuel shall contain less than 0.10 milligrams per liter of the marker solvent yellow 124, except for LM diesel fuel subject to the marking requirements of § 80.510(e).

(b) *Applicable dates for per-gallon standards.* (1) Beginning June 1, 2006, all NRLM diesel fuel must comply with the per-gallon sulfur standard for the designation or classification stated on its PTD, pump label, or other documentation. Based on the provisions of § 80.510(h) and (j), there is no uniform downstream sulfur standard until the downstream dates identified in paragraphs (b)(3) through (b)(8) of this section.

(2) Except as provided in paragraphs (b)(5) and (b)(8) of this section, beginning December 1, 2010, all NRLM diesel

fuel must comply with the cetane index or aromatics standard of § 80.510.

(3) Except as provided in paragraphs (b)(5) through (b)(8) of this section, the per-gallon sulfur standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2010 for all locations.

(4) Except as provided in paragraphs (b)(5) through (b)(8) of this section, the per-gallon sulfur standard of § 80.510(c) shall apply to all NRLM diesel fuel beginning August 1, 2014 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2014 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2014 for all locations. This paragraph (b)(4) does not apply to LM diesel fuel that is sold or intended for sale in areas other than those listed in § 80.510(g)(1) or (g)(2).

(5) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard and the cetane index or aromatics standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2007 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2007 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2007 for all locations.

(6) For all NR diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(b) shall apply to all NR diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NR diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and

shall apply to all NR diesel fuel beginning December 1, 2010 for all locations.

(7) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(c) shall apply to all NRLM diesel fuel beginning August 1, 2012 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2012 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2012 for all locations.

(8) The provisions of paragraphs (b)(5) through (b)(7) of this section shall apply for all NRLM or NR diesel fuel that is sold or intended for sale in the area listed in § 80.510(g)(2), except for NRLM or NR diesel fuel that is produced in accordance with a compliance plan approved under § 80.554.

(9) For the purposes of this section, distributors that have their own fuel storage tanks and deliver only to ultimate consumers shall be treated the same as retailers and their facilities treated the same as retail outlets.

[69 FR 39169, June 29, 2004]

§ 80.512 May an importer treat diesel fuel as blendstock?

An importer may exclude diesel fuel that it imports from the requirements under this subpart, and instead may designate such diesel fuel as diesel fuel treated as blendstock (DTAB), if all the following conditions are met:

(a) The DTAB must be included in all applicable designation, credit and compliance calculations for diesel fuel for a refinery operated by the same entity that is the importer. That entity must meet all refiner standards and requirements.

(b) The importer entity may not transfer title of the DTAB to another entity until the DTAB has been used to produce diesel fuel and all refiner standards and requirements have been met for the diesel fuel produced.

(c) The refinery at which the DTAB is used to produce diesel fuel must be physically located at either the same terminal at which the DTAB first arrives in the U.S., the import facility, or at a facility to which the DTAB is di-

rectly transported from the import facility.

(d) The DTAB must be completely segregated from any other diesel fuel, including any diesel fuel tank bottoms, prior to the point of blending, sampling and testing in the importer entity's refinery operation. The DTAB may, however, be added to a diesel fuel blending tank where the diesel fuel tank bottom is not included as part of the batch volume for a prior batch. In addition, the DTAB may be placed into a storage tank that contains other DTAB imported by that importer. The DTAB also may be discharged into a tank containing finished diesel fuel of the same category as the diesel fuel which will be produced using the DTAB (for example, 15 ppm sulfur undyed or 15 ppm sulfur dyed diesel fuel) provided the blending process is performed in that same tank.

(e) The entity must account for the volume of diesel fuel produced using DTAB in a manner that excludes the volume of any previously designated diesel fuel. The diesel fuel tank bottom may not be included in the company's refinery compliance calculations for that batch of diesel fuel if the fuel in that tank bottom has been previously designated by a refiner or importer. This exclusion of previously designated diesel fuel must be accomplished using the following approach:

(1) Determine the volume of any tank bottom that is previously designated diesel fuel before any diesel fuel production begins.

(2) Add the DTAB plus any blendstock to the storage tank, and completely mix the tank.

(3) Determine the volume and sulfur content of the diesel fuel contained in the storage tank after blending is complete. Mathematically subtract the volume of the tank bottom to determine the volume of the DTAB plus blendstock added, and subsequently transferred to another facility. Such fuel is reported to EPA as a batch of diesel fuel under §§ 80.593, 80.601, and 80.604.

(4) If previously designated motor vehicle diesel fuel having a sulfur content of 15 ppm or less is blended with DTAB, and the combined product after